

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Bernard Baca,

Plaintiff,

vs.

Case No. 1:14-cv-00447

BNSF RAILWAY COMPANY,
(DELAWARE corporation),

Defendant.

**COMPLAINT FOR PERSONAL INJURY UNDER
THE FEDERAL EMPLOYERS LIABILITY ACT 45 U.S.C. §51**

COMES NOW Bernard Baca (“Baca”) by and through his attorneys, Thomas M. Flaskamp, Hunegs, LeNeave & Kvas, and Mark Komer, Long, Komer & Associates, P.A., and for his claims and causes of action against the BNSF Railway Company, a Delaware corporation, (“Defendant”), states and alleges that:

1. This action is brought to address the violation of Mr. Baca’s federal rights under federal law known as the Federal Employers’ Liability Act, 45 U.S.C. § 51 et. seq.. The jurisdiction of this Court is invoked to secure compensatory and other relief for the personal injury Baca has suffered and for damages allowed by statutory and common law.

2. Mr. Baca is a resident and citizen of the City of Farwell, County of Parmer, State of Texas.

3. At all material times, Defendant was a corporation, duly organized and existing under the laws of the State of Delaware, transporting rail cars interstate into and through the State of New Mexico.

4. Defendant's principal place of business in the State of New Mexico is in Valencia County, and its agent for service is Leslie L. Keener, 106 North First Street, Belen, NM 87002.

5. Baca was employed by Defendant as its servant and employee, and as such was working and engaged in interstate transportation and commerce and was working in the furtherance of Defendant's interstate commerce and in work which directly, closely and substantially affected the general interstate commerce carried on by said Defendant as a railroad common carrier of freight for hire.

6. Jurisdiction of this Court is based upon Title 45 U.S.C. §51, *et seq.*, commonly known as the Federal Employers' Liability Act ("FELA"). This action is timely commenced within the meaning of 45 U.S.C. §56.

7. On or about July 12, 2012, Baca was working in the course and scope of his employment as a freight conductor for Defendant when he was instructed to "tie down" (secure) his train at Cardenas Siding (between Vaughn and Fort Sumner, New Mexico) and proceed to a waiting crew transport van.

8. Baca's injuries and damages were caused, in whole or in part, by Defendant failing to provide Baca with a reasonably safe place to work in violation of the FELA.

9. To reach the van Baca had to traverse unsafe ground that was uneven, rough and unimproved.

10. Defendant failed to provide Baca a safe place to work by negligently requiring Baca to traverse the unsafe ground, by failing to maintain or repair the unsafe ground and, or in the alternative, by failing to warn Baca about the conditions.

11. Due to the unsafe condition of the ground, Baca fell while walking to a transport van from his train and suffered severe and permanent injuries.

12. Defendant's negligence proximately caused Baca to sustain severe and disabling injuries.

13. Due in whole or in part to Defendant's negligence, Baca sustained injuries, and has suffered and will continue to suffer personal losses, pain and suffering, and loss of enjoyment of life.

14. Due in whole or in part to Defendant's negligence, Baca has lost wages in the past, and will continue to lose wages in the future and will sustain a permanent diminution of his earning capacity and has otherwise lost economic benefits.

15. Due in whole or in part to Defendant's negligence, individually and collectively, Baca has made an effort to treat, heal and relieve his injuries, Baca has spent and will continue to spend monies for medical, nursing, and related medical care.

WHEREFORE, Baca respectfully prays that judgment be entered against the Defendant in an amount established by the evidence and sufficient to fully compensate Baca for all damages and losses suffered, together with all costs, disbursements, interest, and whatever other relief the Court deems appropriate.

JURY TRIAL DEMANDED.

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